

**School Impact Fee Working Group**  
(Established by Act 246, Session Laws of Hawai'i 2005)  
State of Hawai'i  
[www.state.hi.us/auditor](http://www.state.hi.us/auditor)

**Minutes of Meeting**

The agenda for this meeting was filed with the Office of the Lieutenant Governor, as required by Section 92-7(b), Hawai'i Revised Statutes.

Date: Thursday, February 23, 2006

Time: 10:00 a.m.

Place: State Capitol  
415 South Beretania Street  
Conference Room 212  
Honolulu, Hawai'i

Present: Senator Sakamoto, President of the Senate Designee  
Austin Imamura, Designee for the Mayor of the City & County of Honolulu  
Randy Moore, DOE, Superintendent of Education Designee  
Anthony Ching, Executive Director, Land Use Commission  
Councilmember Dain Kane, President of the Hawai'i Association of Counties  
Duane Kashiwai, DOE Employee whose primary area of responsibility is repair and maintenance, capital improvement projects, and land use planning  
Patricia Park, DOE, Central Oahu Complex Area Superintendent (late arrival)  
Dean Uchida, Executive Director, Land Use Research Foundation  
Bob Bruhl, Development Community Member (late arrival)

Marion M. Higa, State Auditor  
Jan Yamane, Administrative Deputy Auditor/In-House Counsel, Office of the Auditor  
Pat Mukai, Secretary, Office of the Auditor

Ralph Portmore, Group 70 International

Absent: Representative Takumi, Speaker of the House of Representatives Designee

Call to Order: Chair Sakamoto called the meeting to order at 10:03 a.m., at which time quorum was established.

Chair's Report: **Announcements, Introductions, Correspondence, and Additional Distribution Superintendent's Designee**  
Chair Sakamoto asked Member Moore if he has officially replaced Rae Loui as the Superintendent's designee. Member Moore responded yes. Ms. Yamane stated that a letter had been received from the Superintendent's Office appointing Member Moore to the School Impact Fee Working Group. An updated contact list with Member Moore's new contact information has been distributed for members' use.

Member Park arrived at 10:07 a.m..

**Big Island Impact Fee Project**

Member Uchida indicated that information was sent out regarding this project. There is a project in Hilo and another in Kona. The County of Hawai'i is using the same consultant as the 2001 DOE study to determine Fair Share Contribution for the County of Hawai'i. The island-wide impact fees are similar to ours. Member Uchida will be forwarding information as it becomes available on that project. The County of Hawai'i meetings are open. School Impact Fee Working Group members may contact the county representative if they would like to attend one of these meetings. There was a video teleconference in January.

### **Minutes of Previous Meetings**

Chair Sakamoto asked whether members had reviewed the draft minutes of the December 28, 2005 meeting. Member Uchida indicated a correction on page 4, to replace "hard" with "hot," so the sentence reads "hot button issue." Upon a motion by Member Councilmember Kane, seconded by Member Moore, it was voted on and unanimously carried to accept the minutes of the December 28, 2005 School Impact Fee Working Group, as amended.

2006  
Legislature

### **Legislative Measures Relating to School Impact Fees**

Chair Sakamoto indicated there are several bills going through the Legislature. Two bills that were introduced are still in the Senate. Member Representative Takumi, who is absent from this meeting today, would have to advise on bills that are alive in the House. One option is to amend one of the bills to have the work of this group continue. Perhaps Ms. Yamane can share some information on where we are with the consultant contract. The goal is to have a study or something available as a resource to guide the Legislature. The Chair asked for the working group to brainstorm ideas. Chair Sakamoto indicated that there is a sense of frustration from both the department as well as the developing community. The Chair indicated that he wanted the working group to come to some agreement on approach.

Ms. Yamane stated that the Office of the Auditor is in the process of negotiating the contract. The terms include a start date of April 1, 2006, with a target completion date of five months from that date. These dates take into consideration the consultant's schedule, among other variables beyond our control. Ms. Yamane sought the guidance of the working group in determining whether this timeframe is acceptable.

Chair Sakamoto encouraged discussion of the issue. Member Imamura asked if that is a minimal timeframe. Would there be any possibility of getting a draft out sooner? Ms. Yamane responded that the five month timeframe is realistic and would afford the consultant sufficient time to complete a thorough analysis.

Member Councilmember Kane stated if five months is considered fast track and April 1<sup>st</sup> is the start date, his hope would be that the working group would favorably consider moving forward and discussing whether to revise Act 246 (SLH 2006) or some other legislative vehicle to push out the life of the working group. It makes sense to push out the dates a little farther and do a comprehensive job. The other option is to stop and not proceed, but then the issues don't get addressed and the parties are back to square one. Given this, it would be favorable to consider some extension or other accommodation through Act 246 or another vehicle. And, even if it takes a little more money, at least the group will have something in hand six to seven months from now. That gives the group something to work with for the next legislative session in 2007.

Chair Sakamoto asked for Mr. Portmore's input, since he was involved in the last study. Mr. Portmore indicated that he is available as a resource on the previous study, but also wanted to state for the record that his firm is negotiating with the Office of the Auditor to be the vendor/consultant for the Act 246 study. From his perspective, Mr. Portmore indicated that he, too, would like additional guidance from the group.

Member Councilmember Kane said that it's clear that the working group will not have a school impact fee product for this session. He would be in favor of extending the life of the working group, but indicated that he was not sure if the group needed to go back to the Legislature and make the request. Without legislation, the group cannot continue to meet beyond the sunset date, which is July 30, 2006. From a procedural standpoint, this is something the working group needs to discuss. If the group wants to move forward, if we think it's going to be in the best interest of the intent of Act 246, the group should make the request to the Legislature and seek an extension to complete the work of Act 246.

Chair Sakamoto asked other members for input. Member Moore asked whether Act 246 needs to be more comprehensive? And if so and that's the wish of the working group, wouldn't the group need to wait until the Legislature passed amendments? The group couldn't start on the study if the scope might change. If it gets expanded, would we need additional appropriations if

it's a bigger study? Member Moore expressed his desire to come up with the best recommendation possible under the circumstances.

Ms. Yamane clarified that the appropriations are for FY2005-06. The sunset date for the working group is July 30, 2006. If the group waits for legislation this year (2006) to redefine the scope, the work could not commence until after a bill to that effect is passed. So long as the contract is signed and the moneys encumbered before the end of FY2005-06, the moneys will not lapse. The problem will be with the life of the working group. In the above scenario, it may sunset shortly after a contract is signed and the consultant will not have guidance from the group. The consultant's work, however, will continue until the work is completed.

Chair Sakamoto indicated that the study would be completed, just as if the Legislature asked the Auditor, Legislative Reference Bureau, or somebody else to do this study. Sometimes a study will have recommendations, sometimes not. When the study is submitted, the legislative committees don't always convene. So one option is to let the working group sunset, that is, don't continue it. Regardless of whether the working group continues, the study will still be completed.

Member Uchida asked the Auditor a question. In your negotiations with the consultant, is there more work that could or should be done? Do you get an impression that there was more work that could be done than what the working group is trying to accomplish?

Ms. Yamane indicated that Act 246 is the basis for the negotiation. The language in the scope that was amended by the working group at the December 28, 2005 meeting is part of the negotiation.

State Auditor Higa raised another issue for consideration. She said that if the working group would like to see consultant testimonies before the Legislature, that work would be subsequent to the life of this working group, assuming there is no legislation to extend. Also, consultant testimony will require additional moneys and the group would need to go back to the Legislature to make that request for appropriations.

Member Uchida asked whether the scope, as it exists today, is broad enough, sufficient to do a good job? State Auditor Higa said she didn't get a sense that there was a shortfall in the language of the scope.

Chair Sakamoto solicited further comments. He stated that one possible course of action is to attempt to get a bill to approve extending this body and providing additional moneys for consultant presentations and continuation costs. The other option is for the Office of the Auditor to agree on a contract knowing that it's not going to be completed this session or stay within the timeframe. Even without a study, the Legislature might do something anyway. Everyone—the Legislature, the department, and members of the developing community—is frustrated with this issue. It's difficult to get consensus. Chair Sakamoto asked for any final thoughts.

Member Imamura offered that Member Uchida's Big Island study offers parallels to the school impact fee study. It would be interesting to know what the recommendations will be from that study. Maybe those recommendations would even answer the question of whether we want to continue doing this? It would be most helpful for our work. Member Imamura asked whether there was a target timeframe for completion.

Member Uchida indicated there's a meeting in the first week of March. They want to submit something to their council. So, with this revised timeframe, the county's consultants may be complete by the time our consultant begins. Member Imamura would like to take a look at the Big Island study. He asked Member Uchida if he has the confidence they'll have something substantive. Member Uchida replied the methodology is pretty straightforward. They are asking questions such as how to arrive at the numbers; how should policy-makers view impact fees; and what does or should an impact fee do?

Member Imamura asked if the impact fee approach or theory is unique to the Big Island? Member Uchida said the county is looking at it as just another pot of money. The concern is they

are moving away from an impact fee philosophy toward one of taxation. Member Moore stated another alternative is to see what the County of Hawai'i comes up with, and if there's a framework there, can it be applied to Honolulu for school impact fees. In that scenario, the working group would wait until the County of Hawai'i is finished, then the working group modifies its scope of work based on their work.

Chair Sakamoto asked Mr. Portmore if he would like to comment. Mr. Portmore said their proposal begins with a series of meetings. The scope is general and loose enough now. In terms of expanding or re-focusing the scope, the scope of what the working group wants will be set by consensus. The kick-off meetings are in part designed to begin a dialogue and help the group reach consensus.

Member Uchida stated that having the same consultant as the County of Hawaii will be a benefit for the school impact fee project. Bear in mind, though, that looking at impact fees strictly from an educational standpoint, given DOE's issues, schools in populated areas, and growth issues as far as distribution, is very different from managing growth with impact fees on the Big Island. It will be interesting to see how the consultant approaches it.

Member Councilmember Kane cautioned the group about moving away from the intent of Act 246. His concern is for the group to stay the course with the two studies that were done and not be distracted by something outside of that scope. He reminded the group that the focus is on educational facilities. And, although the Big Island study will provide an opportunity to analyze and extract out things that are relevant to the study, the group shouldn't get detoured by issues unique to the Big Island. The role of the working group is to help move this thing along, engage a consultant, and address the work in Act 246. Ultimately, the group's primary role is going to be to provide school impact fee recommendations based on updated information.

Member Councilmember Kane hoped the group would consider going to the Legislature and asking them for the permission to remain in tact and see the project through. The recommendations are going to take time. Obviously, the Legislature put this group together because it felt that the group consisted of people that have the expertise to provide recommendations for the school impact fee issue. Member Councilmember Kane recommended that the group just follow through and get this thing done. And, the reality is, if the scope is expanded, there will be additional costs related to that.

Chair Sakamoto sensed from the group an urgency to do something sooner than later, this year versus next year. The chair wanted members to add comments and went around the table. Member Kashiwai stated from his point of view, this committee can move forward. It seems the scope is flexible enough to adjust to different concerns and variables. Data gathering and other items need to be accomplished. Now is the time to request on extension and that would get us started. Member Kashiwai recommended that the group start the contract now.

Member Moore offered that if the Legislature decides not to extend the life, in terms of urgency from the department's perspective, we have a fair share formula that not everyone is happy with. And, the longer we don't have a legislative solution, the longer the unhappiness will continue. Chair Sakamoto replied urgency is the issue and it's important, even though there is something in place.

Member Imamura replied he thinks the group should move forward. The educational component is important. Personally, he would have liked to have seen the Big Island report, but if there is an urgency to complete this work, then the group should proceed.

Member Ching responded he would support what Member Councilmember Kane put forward. We have a specific scope that needs to be carried through and the timeframe is a reality. A simple solution would be for us to discuss whether to change the sunset date to more accurately reflect the timeframe realities. The priority is, though, that the group needs to do something. The scope is adequate to give new light and it's needed now. Member Ching sees the Big Island group as a separate discussion that could easily distract this project. We need to keep the scope focused and move forward.

Member Park agreed with the discussions. The act was passed because it's important. The key word that she got out of the act was fairness from DOE. This working group needs to keep that in mind and go for quality. If necessary, the timeframe can be changed. The group should keep the same scope and not worry so much about the deadline.

Member Uchida agreed. As the report drafts come in from the consultant, the working group can provide comments to the consultant as opposed to just letting the Auditor handle it. There is some benefit to having the working group continue. The group is assembled and trying to move forward. The timeframe can be accommodated.

Member Councilmember Kane stated that once the body is ready to decide and can reach consensus on the adjustments needed in Act 246, we can get the time extension to continue our existence in order to play our primary role in providing recommendations to preliminary as well as final drafts of the school impact fee study.

Chair Sakamoto said that there appears to be consensus for amending the bill to extend the task force. The scope sounds like it can be worked out without changing the language. Chair Sakamoto recommended that the working group be extended for a year. Thus, the initial sunset of July 30, 2006 would be pushed out to July 30, 2007.

Member Councilmember Kane asked if the Auditor's Office is prepared to provide us with an estimate of the cost factor needed to carry forward both the working group and the contract study. Auditor Higa responded that it would have to be determined soon, relatively quickly. We need to estimate the number of meetings times actual costs, that is, estimate what it would take to bring the consultant back "x" number of times. One observation, and based on experience in working with other working groups like this, it is helpful if one or two members were available to present testimonies on behalf of the working group and in support of the measures to extend the time and request additional appropriations. Senate Ways and Means Committee (WAM) will accept written testimonies, so members wouldn't have to appear before that committee.

Member Councilmember Kane asked for clarification. Will the Auditor's Office provide written testimonies on behalf of the working group? Auditor Higa responded it can be handled that way. Chair Sakamoto stated that the Department of Education and the Land Use Research Foundation can also provide testimonies. Member Councilmember Kane thought the testimony should reflect the working group's consensus to move forward, that way the three DOE members won't be put in a position of possibly violating Sunshine or other transparency requirement. Chair Sakamoto answered if we did pass a motion that incorporates these discussions, then yes, the testimony would be that of the working group.

Member Councilmember Kane asked about format for the testimony. Will the working group need to sign off before it is submitted? Perhaps the sign off should not come from Chair Sakamoto, since he sits as the Chair of the Senate Education and Military Affairs Committee. Ms. Yamane said the group could designate one or more members to present testimonies on behalf of the working group. Auditor Higa stated that another option would be to submit testimonies on the Auditor's letterhead since the Office of the Auditor is administering the working group. The testimony would reflect the consensus and position of the working group.

Member Uchida suggested that the working group elect a Vice Chair. Chair Sakamoto agreed and opened nominations for Vice Chair. Member Uchida nominated Member Councilmember Kane. Upon a motion by Member Uchida, seconded by Member Moore, it was voted on and unanimously carried to close nominations for Vice Chair. Upon a motion by Member Moore, seconded by Member Park, it was voted on and unanimously carried to elect Member Councilmember Kane as Vice Chair of the School Impact Fee Working Group.

Chair Sakamoto indicated it was his understanding, based upon members' comments, that the group wants the Auditor's Office to complete the consultant contract. As that is proceeding, the group wants to amend one of the bills this session to ask the Legislature to extend the life of the working group from July 30, 2006 to July 30, 2007, and to appropriate a dollar amount to be

determined in addition to the \$150,000 to continue the work. Member Uchida stated that there should be a letter from the working group supporting the legislation. Chair Sakamoto asked the Auditor's Office to help the working group facilitate testimony to support the amendment of one of the bills. There was no further discussion on the issues.

Upon a motion by Member Moore, seconded by Member Park, it was voted on and unanimously carried to have the Auditor submit testimony to the Legislature in support of extending the life of the School Impact Fee Working Group from July 30, 2006 to July 30, 2007, and to request additional appropriations to support the continuation of the working group and the presentation of the school impact fee study by the consultant to the Legislature.

Planning:

Ms. Yamane suggested that the next meeting be held the first week of April to facilitate the consultant's kick-off meeting with the working group. Chair Sakamoto suggested April 6<sup>th</sup>. Member Ching noted his commission meets on the first and third Thursdays of every month; hence, he will be conflicted on the 6<sup>th</sup>. Member Councilmember Kane also noted that he may be conflicted. He is Maui County Council's Budget & Finance chair and on April 6<sup>th</sup> the committee will be discussing the county budget. He will do his best to attend and will notify staff of his availability. He expressed concern if members are not able to attend, would that impact the ability of the working group to work with the consultant and make any needed adjustments. Ms. Yamane clarified as long as the working group has quorum, the group can make decisions and satisfy Sunshine Law requirements.

Chair Sakamoto asked what the consultant would want to do at the meeting. Ms. Yamane stated the consultant would use that meeting to interact with the working group and perhaps refine the scope. Member Councilmember Kane said he will make every effort to attend.

Chair Sakamoto asked for clarification of the Sunshine Law. Won't members violate the law if more than two members meet with the consultants outside of a working group meeting? Ms. Yamane answered that the consultant intends to do fact finding with the members. If the consultant meets with more than two members, for example all three DOE members, that will not violate the Sunshine Law. Fact-finding and information gathering is permissible, but members are cautioned not to discuss issues, especially counting votes on issues that are going to come before the working group for decisionmaking.

Member Uchida asked whether it would be appropriate for the working group to invite Central Oahu developers to the April 6<sup>th</sup> meeting. This would be developers for Mililani and Waiawa, Castle and Cooke and Gentry. Chair Sakamoto asked whether developers can do a presentation, maybe ½ hour – 15 minutes for each developer. Ms. Yamane then suggested that the meeting be convened at 9:00 a.m. rather than 10:00 a.m. to accommodate the additional agenda items. Ms. Yamane asked Member Uchida to coordinate with the Auditor's Office for technical assistance (laptop, projector, etc.).

Member Bruhl arrived at 11:10 a.m.

Future Meetings:

The next meeting of the School Impact Fee Working Group was scheduled for:

Date: April 6, 2006  
Time: 9:00 a.m.  
Place: State Capitol, Conf. Rm. 224

Adjournment: With no further business to discuss, Chair Sakamoto adjourned the meeting at 11:12 a.m.

Reviewed and approved by:

A handwritten signature in cursive script, appearing to read "Jan Yamane".

Jan Yamane  
Administrative Deputy Auditor/In-House Counsel

March 23, 2006

☒ Approved as circulated.

☐ Approved with corrections; see minutes of (date) meeting.

SIFWG/022306